



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha12101535  
[REDACTED]

[REDACTED],  
Complainant,

v.

KIA MUNCIE,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On October 29, 2012, [REDACTED], ("Complainant") filed a Complaint with the Commission against Kia Muncie, ("Respondent") alleging discrimination on the basis of disability in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) and [REDACTED]. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to his disability. In order to prevail on such a claim, Complainant must show that: (1) he has an impairment that substantially limits a major life activity, or that Respondent perceived him to be disabled; (2) he could perform the essential functions of the job, with or without, a reasonable accommodation; (3) Respondent knew or should have known of Complainant's need for a reasonable accommodation; and (4) Respondent refused to consider Complainant's needs and denied the accommodation without showing a undue hardship.

By way of background, Complainant began working for Respondent on or about November 18, 2011 as a detail technician. In order to perform his duties, Complainant was required to bend, twist, and lift heavy objects. On or about August 18, 2012, Complainant injured his back. It is presumed that Complainant's injuries constitute a disability as the term is defined



under the Indiana Civil Rights Law.<sup>1</sup> The evidence indicates that Complainant advised his supervisor ( ) and Respondent's General Manager ( ) about the injury and provided medical documentation explaining his work restrictions. Specifically, the medical documentation stated that Complainant needed to "avoid heavy lifting, twisting, and turning" upon his return on September 4, 2012. Complainant returned to work on September 4, 2012, but had to leave after working a half day because he was in pain. The evidence shows that Complainant informed Walker that he was in pain and could no longer perform the essential functions of his job. The evidence shows that Complainant provided Respondent with medical documentation to substantiate that he would not be able to work for several weeks; however, Respondent considered Complainant to have quit, first on September 4, 2012, and later, in October 2012.

While no evidence has been provided or uncovered during the course of this investigation to substantiate Complainant's claims that requested him to return to work as soon as possible because it was short-handed, it is clear that Respondent failed to enter into an interactive dialogue with Complainant to see whether a reasonable accommodation could be granted which would permit him to maintain his employment. Moreover, no evidence has been produced or uncovered during the course of the investigation to show that a reasonable accommodation did not exist or such an accommodation would constitute an undue burden to Respondent. Thus, based upon the above findings, probable cause exists to believe that Respondent's actions constituted a violation of the Americans with Disabilities Act Amendments Act ("ADAAA").

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code 22-9-1-16, 910 IAC 1-3-6.

August 12, 2013  
Date

Akia A. Haynes  
Akia A. Haynes, Esq.,  
Deputy Director  
Indiana Civil Rights Commission

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<sup>1</sup> However, *assuming arguendo* that Complainant's injuries do not rise to the level of a disability, there is no question that Respondent perceived Complainant as being disabled.